IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Chetanram Vs. State of Raj. & Anr.

S.B.CR.MISC. PETITION NO.357/2005

against the order dt.01.12.2004 passed by Judge, Family Court, Jodhpur in Cr.Original Case No.202/2003

DATE OF ORDER :: August 17, 2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr.Nagraj Goswami, for the petitioner.

Mr.Ashok Upadhyaya, Public Prosecutor.
Mr.Iqbal Sherani, for non-petitioner No.2.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner has assailed the order dt. 01.12.2004 passed by the Judge, Family Court, Jodhpur (for short 'the trial court' hereinafter) whereby the trial court granted monthly allowance of maintenance in favour of the non-petitioner No.2.

Smt. Galkai and against the petitioner and one Shivdayal at the rate of Rs.300/- per month each.

It is contended by learned counsel for the petitioner that the land which falls in share of the petitioner is being cultivated by his mother, the non-petitioner No.2 in whose favour monthly allowance of maintenance has been granted. It is further contended that the petitioner has produced a certificate issued by a Tehsildar regarding his annual income i.e. Rs.11,000/-. The petitioner has a liability of his wife and children and, therefore, a sum of Rs.300/- granted as monthly allowance of maintenance against the petitioner is excessive.

Learned counsel for non-petitioner No.2 supported the order impugned and contended that Shivdayal, other son of non-petitioner No.2 has been regularly paying the monthly allowance of maintenance granted in favour of the non-petitioner No.2 at the rate of Rs.300/- per month, however, the petitioner has not so far paid any amount of maintenance. He contended that the certificate issued by the Tehsildar cannot be formed a basis of petitioner's annual income as the Tehsildar hardly any knowledge about the income of the petitioner as neither the petitioner is his employee nor the Tehsildar is the employer.

The trail court, considering all the facts and circumstances of the case, thought it fit to grant the monthly allowance of maintenance at the rate of Rs.300/- per month directing the petitioner and Shivdayal each to pay the said amount. On close scrutiny of the order impugned, in my view, the order impugned calls for no interference. It cannot be said that the order impugned would result in serious miscarriage of justice of abuse of process of any court.

The petition has no force. The same is, therefore, dismissed. Ad interim stay order dt. 6.4.2005 is vacated. The stay petition also stands dismissed.

[H.R.PANWAR],J.

m.asif/-